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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,316	04/18/2005	Rafael Brown	04-435	8328
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EXAMINER				
SPAHN, GAY				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/506,316

Applicant(s)

BROWN, RAFAEL

Examiner

Gay Ann Spahn

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/18/05, 4/28/08, and 6/3/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of GROUP I (i.e., claims 23-32) in the reply filed on 28 April 2008 is acknowledged.

Applicant's election with traverse of SPECIES I (i.e., Fig. 3a) in the reply filed on 03 June 2008 is acknowledged. The traversal (found on page 5 of 5 of the "Election" field on 28 April 2008) is on the ground(s) that:

(1) "[e]ach of the species referred to by the examiner are part of the overall generic method of the present invention";

(2) "[a]ll of the species identified by the examiner represent different stage sets which can be accomplished via the method of the present invention.

Thus, Applicant argues that the examiner's election of species requirement is in error.

This is not found persuasive because Applicant has admitted that each of the stage sets are "DIFFERENT" meaning that they are different species of each other and therefore, the examiner's election of species requirement is NOT in error.

The requirement is still deemed proper and is therefore made FINAL.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore,

(1) "fitting respective individual side parts of the individual stage elements with different components of a stage set" as specifically recited in claim 29,

(2) "in a first position of the stage elements the individual stage elements are fitted out with one stage set in a visible region of a stage set and with another stage set in a region which cannot be seen, and different stage sets are produced by virtue of the stage elements being actively moved" as specifically recited in claim 30,

(3) "attaching a plurality of stage elements to different side parts together to conceal an entire stage set on the stage" as specifically recited in claim 32,

must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure

is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to because:

- (1) Fig. 1, what are the "X's" on side part "2" (i.e., are these part of the side part, are they underneath the side part?);
- (2) Fig. 1, are the drive elements "7", the energy source "11", the control unit "12", etc. all visible because the chassis is only a frame or should these components be shown in dashed outline as being beneath the walls of the chassis?;
- (3) Figs. 1 and 2, it is not understood what "4" component of stage set is?;
- (4) Fig. 2, the arced arrow at the left-hand side of the figure should be labeled with a reference numeral and discussed in the specification; and
- (5) Figs. 1 and 2, no lead lines should end in a blackened circle.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

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replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because:

(1) the abstract appears not to be in narrative form, but rather in claim form (i.e., one long-run on sentence).

Correction is required. See MPEP § 608.01(b).

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Since many examiners use the title of the invention for searching purposes, the examiner suggests that Applicants amend the title of the invention to one that is clearly indicative of the patentable feature of the invention. However, should Applicants choose not to amend the title of the invention, the examiner will amend the title of the invention at the time of allowance, if any (pursuant to the Manual of Patent Examining Procedure (MPEP) § 606.01, wherein it states that "[i]f a satisfactory title is not supplied by the applicant, the examiner may, at the time of allowance, change the title by examiner's amendment.").

Claim Objections

Claim 23 is objected to because of the following informalities:

(1) claim 23, line 8, the word "last" should be changed to --least--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 24-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24, line 2, the recitation of "a plurality of stage elements" is vague, indefinite, and confusing as lacking antecedent basis because it is not clear if the "at least one stage element" introduced in claim 23, line 4, is one of the plurality of stage elements or if the plurality of stage elements is in addition to the "at least one stage element".

Claim 24, line 3, the recitation of "moving means" is vague, indefinite, and confusing as lacking antecedent basis because it is not clear if this is referring back to the "moving means" introduced in claim 23, lines 4-5.

Claim 24, line 3, the recitation of "drive means" is vague, indefinite, and confusing as lacking antecedent basis because it is not clear if this is referring back to the "drive means" introduced in claim 23, line 7.

Claim 24, line 5, the recitation of "for moving same" is vague, indefinite, and confusing as lacking antecedent basis because it is not clear what "same" is referring back to.

Claim 26, line 2, the recitation of "a plurality of stage elements" is vague, indefinite, and confusing as lacking antecedent basis because it is not clear if this is referring back to "a plurality of stage elements" introduced in claim 24, line 2.

Claim 26, line 3, the recitation of "a stage set" is vague, indefinite, and confusing as lacking antecedent basis since it is not clear if this is referring back to "a stage set" introduced in lines 5-6 of claim 24.

Claim 27, line 2, the recitation of "individual stage elements" is vague, indefinite, and confusing as lacking antecedent basis because it is not clear if this is referring back to the plurality of stage elements already introduced.

Claim 27, line 3, the recitation of "a stage set" is vague, indefinite, and confusing as lacking antecedent basis since it is not clear if this is referring back to "a stage set" introduced in lines 5-6 of claim 24.

Claim 28, line 2, the recitation of "any one or more stage element independently of the other stage elements" is vague, indefinite, and confusing as lacking antecedent basis because the appears to be reciting three stage elements, but only two stage elements have been introduced.

Claim 26, line 3, the recitation of "a stage set" is vague, indefinite, and confusing as lacking antecedent basis since it is not clear if this is referring back to "a stage set" introduced in lines 5-6 of claim 24.

Claim 30, lines 2-3, the recitation of "the stage elements" and "the individual stage elements" is vague, indefinite, and confusing as not being clear. What is the difference between "the stage elements" and "the individual stage elements."

Claim 30, line 3, the recitation of "one stage set" is vague, indefinite, and confusing as lacking antecedent basis because it is not clear if this is referring back to the stage set already introduced.

Claim 30, line 4, the recitation of "a stage set" is vague, indefinite, and confusing as lacking antecedent basis since it is not clear if this is referring back to "a stage set" introduced in claim 29, lines 3-4.

Claim 30, line 4, the recitation of "another stage set" is vague, indefinite, and confusing as lacking antecedent basis because it is not clear if this is referring back to a stage set already introduced or is a new stage set.

Claim 30, line 5, the recitation of "different stage sets" is vague, indefinite, and confusing as lacking antecedent basis because it is not clear if this is referring back to the stage set already introduced or is in addition thereto.

Claim 31, line 3, the recitation of "the drive elements" is vague, indefinite, and confusing as lacking antecedent basis. Is this referring back to the "drive means" already introduced?

Claim 32, line 2, the recitation of "a plurality of stage elements" is vague, indefinite, and confusing as lacking antecedent basis because it is not clear if this is referring back to "a plurality of stage elements" already introduced or is addition thereto.

Claim 32, line 3, the recitation of "an entire stage set" is vague, indefinite, and confusing as lacking antecedent basis since it is not clear if this is referring back to a stage set already introduced or is in addition thereto.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23-26 and 28-32 rejected under 35 U.S.C. 102(b) as being anticipated by AGER (U.S. Patent No. 5,823,884).

As to claim 23 (and as best understood despite the 35 U.S.C. § 112, second paragraph, indefiniteness discussed above), AGER discloses a method for moving at least one stage element on a stage for creating a stage set, comprising the steps of:

providing at least one stage element (set, scenery, or prop mounted on stage wagon 10 – see col. 1, first paragraph) on a stage with moving means (stage wagon 10) for allowing the at least one stage element (set, scenery, or prop) to be moved on the stage;

providing drive means (16/18) for driving the moving means (stage wagon 10) for moving the at least one stage element (set, scenery, or prop) on the stage;

selectively actuating (col. 2, line 62 through col. 3, line 2) the drive means (16/18) for selectively moving the stage element (set, scenery, or prop).

As to claim 24 (and as best understood despite the 35 U.S.C. § 112, second paragraph, indefiniteness discussed above), AGER discloses that method of claim 23 as discussed above, and AGER also discloses providing a plurality of stage elements (set, scenery, or prop) each having moving means (stage wagon 10) and drive means

(16/18) for driving the moving means; and selectively actuating the drive means (16/18) of one or more of the plurality of stage elements (set, scenery, or prop) for moving same to create a stage set.

As to claim 25 (and as best understood despite the 35 U.S.C. § 112, second paragraph, indefiniteness discussed above), AGER discloses that method of claim 24 as discussed above, and AGER also discloses selectively actuating by wireless actuation (see col. 5, line 20, wherein it states controlling the "drive means 16 and 18 via a radio or other cordless link") of the stage elements (set, scenery, or prop) to activate the drive means (16/18) thereof.

As to claim 26 (and as best understood despite the 35 U.S.C. § 112, second paragraph, indefiniteness discussed above), AGER discloses that method of claim 24 as discussed above, and AGER also discloses displacing a plurality of stage elements (set, scenery, or prop) in selectable positions (see Fig. 4 showing stage wagon 10 moving from a first position (A) to a second selected position (B) and see col. 5, line 3, which talks about a third position) in relation to one another, as a stage set on the stage (surface over which stage wagon 10 is to travel).

As to claim 28 (and as best understood despite the 35 U.S.C. § 112, second paragraph, indefiniteness discussed above), AGER discloses that method of claim 24 as discussed above, and AGER also discloses moving any one or more stage element (set, scenery, or prop) independently of the other stage elements (set, scenery, or prop) on the stage to any desired position.

As to claim 29 (and as best understood despite the 35 U.S.C. § 112, second paragraph, indefiniteness discussed above), AGER discloses that method of claim 24 as discussed above, and AGER also discloses fitting respective individual side parts of the individual stage elements (set, scenery, or prop) with different components of a stage set.

As to claim 30 (and as best understood despite the 35 U.S.C. § 112, second paragraph, indefiniteness discussed above), AGER discloses that method of claim 29 as discussed above, and AGER also discloses that in a first position (see (A) in Fig. 4) of the stage elements (set, scenery, or prop), the individual stage elements (set, scenery, or prop) are fitted out with one stage set in a visible region of a stage set and with another stage set in a region which cannot be seen, and different stage sets are produced by virtue of the stage elements (set, scenery, or prop) being actively moved (via control signals to drive means 16/18).

As to claim 31 (and as best understood despite the 35 U.S.C. § 112, second paragraph, indefiniteness discussed above), AGER discloses that method of claim 24 as discussed above, and AGER also discloses providing each of the stage elements (set, scenery, or prop) with at least one energy source ("powered" stage wagon) for independently supplying the drive elements (16/18) for moving the moving means (stage wagon 10).

As to claim 32 (and as best understood despite the 35 U.S.C. § 112, second paragraph, indefiniteness discussed above), AGER discloses that method of claim 30 as discussed above, and AGER also discloses attaching a plurality of stage elements

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(any two of set, scenery, or prop) to different side parts (side parts of any two of set, scenery, or prop) together to conceal an entire stage set on the stage.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over
AGER (U.S. Patent No. 5,823,884).**

As to claim 27 (and as best understood despite the 35 U.S.C. § 112, second paragraph, indefiniteness discussed above), AGER discloses that method of claim 26 as discussed above, and AGER also discloses that individual stage elements (set, scenery, or prop) are connected to one another to produce a stage set, and are driven (by given control signals to drive means 16/18) in order to change over the stage set.

AGER fails to explicitly disclose that individual stage elements are connected to one another to produce a stage set.

However, the examiner takes Official Notice that it is notoriously well known in the art to connect individual stage elements to produce a stage set.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of AGER by connecting individual stage elements to produce a stage set in order to quickly move those individual stage

elements move together across the stage set so that there is no worry of the one stage element lagging behind the other.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gay Ann Spahn whose telephone number is (571)-272-7731. The examiner can normally be reached on Monday through Friday, 10:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on (571)-272-6777. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gay Ann Spahn/
Gay Ann Spahn, Primary Examiner
August 3, 2008